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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/551,143	04/14/2000	Hideaki Yoshida	000489	1917

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EXAMINER

JERABEK, KELLY L

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/551,143

Applicant(s)

YOSHIDA ET AL.

Examiner

Kelly L. Jerabek

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 8-20 and 28-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 21-27, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-7, 21-27, and 33-34 have been considered but are moot in view of the new ground(s) of rejection.

### ***Election/Restrictions***

Claims 8-20 and 28-32 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/3/2005.

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Color Image Pickup Device and Color Image Pickup Apparatus Including a Randomized Color Coding Array".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-7, 21-27, and 33-34 rejected under 35 U.S.C. 102(e) as being anticipated by Yosida US 6,803,955.**

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Re claim 1, Yosida discloses in figure 1 an imaging apparatus including a random color filter array. The imaging apparatus (1) includes a single sensor color image pickup device (105) consisting of a pixel group placed in an array of a plurality of pixels for picking up a color image (col. 7, lines 8-53). Yosida also discloses a color coding array that directly picks up a color image corresponding to the pixel group

Art Unit: 2612

arranged in a randomized array satisfying predetermined minimum color density conditions (col. 12, lines 17-40; figs. 2 and 10).

Re claim 2, Yosida states that the color coding array comprises a color filter (col. 7, lines 34-41; fig. 2).

Re claim 3, Yosida discloses in figure 1 an imaging apparatus including a random color filter array. The imaging apparatus (1) includes a single sensor color image pickup device (105) consisting of a pixel group place in an array of a plurality of pixels for picking up a color image (col. 7, lines 8-53). Yosida also discloses a color coding array that directly picks up a color image corresponding to the pixel group arranged in a randomized array satisfying predetermined minimum color density conditions (col. 12, lines 17-40; figs. 2 and 10). Additionally, Yosida discloses a color separation means (127) for performing color separation processing of output signals of the color image pickup device in accordance with the random color coding array of the color image pickup device (col. 13, line 44 – col. 14, line 31).

Re claim 4, see claim 2.

Re claim 5, Yosida states that the imaging apparatus includes a storage means for storing array data concerning the random color coding array for performing color separation processing (col. 13, line 44 – col. 14, line 7).

Re claims 6 and 7, Yosida states that the storage means may include a mask ROM or an EEPROM (col. 16, lines 47-65).

Re claim 21, see claim 1.

Re claim 22, see claim 2.

Re claim 23, see claim 3.

Re claim 24, see claim 4.

Re claim 25, see claim 5.

Re claim 26, see claim 6.

Re claim 27, see claim 7.

Re claim 33, Yosida discloses in figure 1 an imaging apparatus including a random color filter array. The imaging apparatus (1) includes a single sensor color image pickup device (105) including a pixel array having two-dimensionally arranged pixels (col. 7, lines 8-53). Yosida also discloses a color separation filter for guiding the

incident optical image to each pixel of the array. The color separation filter has a random color arrangement satisfying minimum color density conditions and it directly picks up a color image (col. 12, lines 17-40; figs. 2 and 10).

Re claim 34, Yosida discloses in figure 1 an imaging apparatus including a random color filter array. The imaging apparatus (1) includes a single sensor color image pickup device (105) including a pixel array having two-dimensionally arranged pixels (col. 7, lines 8-53). Yosida also discloses a color separation filter for guiding the incident optical image to each pixel of the array. The color separation filter has a random color arrangement satisfying minimum color density conditions and it directly picks up a color image (col. 12, lines 17-40; figs. 2 and 10). The imaging apparatus also includes a preprocess circuit (126) for converting the output of the color image pickup device into digital signals, a memory device (137) for storing color restoration data corresponding to the color arrangement of the color separation filter, and a digital processing circuit (127) for generating digital image signals restored to predetermined color space, based on the digital signals outputted from the preprocess circuit and the color restoration data stored at the memory device (col. 13, line 44 – col. 14, line 31).

**Claims 1-4, 21-24, and 33 rejected under 35 U.S.C. 102(e) as being anticipated by Tsuruoka et al. US 6,343,146.**

Re claim 1, Tsuruoka discloses in figure 11 an image signal processor including a random color filter array. The signal processor includes a single sensor color image pickup device (501) consisting of a pixel group placed in an array of a plurality of pixels for picking up a color image. Tsuruoka also discloses a color coding array that directly picks up a color image corresponding to the pixel group arranged in a randomized array satisfying predetermined minimum color density conditions (col. 13, line 45 – col. 14, line 11; figs. 12A, 12B).

Re claim 2, the color coding array includes a color filter (figs. 12A, 12B).

Re claim 3, Tsuruoka discloses in figure 11 an image signal processor including a random color filter array. The signal processor includes a single sensor color image pickup device (501) consisting of a pixel group placed in an array of a plurality of pixels for picking up a color image. Tsuruoka also discloses a color coding array that directly picks up a color image corresponding to the pixel group arranged in a randomized array satisfying predetermined minimum color density conditions (col. 13, line 45 – col. 14, line 11; figs. 12A, 12B). Additionally, Tsuruoka discloses a color separation means for performing color separation processing of output signals in accordance with the random color coding array (col. 14, lines 14-30).

Re claim 4, the color coding array includes a color filter (figs. 12A, 12B).



Re claim 21, see claim 1.

Re claim 22, see claim 2.

Re claim 23, see claim 3.

Re claim 24, see claim 4.

Re claim 33, Tsuruoka discloses in figure 11 an image signal processor including a random color filter array. The image signal processor includes a single sensor color image pickup device (501) including a pixel array having two-dimensionally arranged pixels. Yosida also discloses a color separation filter for guiding the incident optical image to each pixel of the array. The color separation filter has a random color arrangement satisfying minimum color density conditions and it directly picks up a color image (col. 13, line 45 – col. 14, line 11; figs. 12A, 12B).

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-7, 21-27, and 33-34 (Application 09/551,143, hereinafter referred to as '143) rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10 and 12-15 of U.S. Patent No. 6,803,955 (hereinafter referred to as '955). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Relative to claims 1- 2, 21-22, and 33 of the current application '143, the claims 1-2, 21-22, and 33 of the current application '143 are a broader recitation of the same invention claimed in the claim 10 of '955. Therefore, claims 1-2, 21-22, and 33 are encompassed by the claim 10 of '955 (e.g. claim 10 of '955 discloses a 6-color random color coding array meeting a requirement pertaining to color density; claims 1-2, 21-22, and 33 disclose that a random array satisfies predetermined minimum color density conditions. **It is critical that patents issuing from this application be commonly owned to avoid potential licensees from owning license fees to two different parties.**

Relative to claims 3-4 and 23-24 of the current application '143, the claims 3-4 and 23-24 of the current application '143 are a broader recitation of the same invention claimed in the claim 12 of '955 (please see the examiner comments above).

Relative to claims 5, 25, and 34 of the current application '143, the claims 5, 25, and 34 of the current application '143 are a broader recitation of the same invention claimed in the claim 13 of '955 (please see the examiner comments above).

Relative to claims 6 and 26 of the current application '143, the claims 6 and 26 of the current application '143 are a broader recitation of the same invention claimed in the claim 14 of '955 (please see the examiner comments above).

Relative to claims 7 and 27 of the current application '143, the claims 7 and 27 of the current application '143 are a broader recitation of the same invention claimed in the claim 15 of '955 (please see the examiner comments above).

### ***Contacts***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly L. Jerabek whose telephone number is **(571) 272-7312**. The examiner can normally be reached on Monday - Friday (8:00 AM - 5:00 PM).

Art Unit: 2612

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on **(571) 272-7308**. The fax phone number for submitting all Official communications is 703-872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the Examiner at **(571) 273-7312**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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